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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,370	02/10/2005	Lysander Chrisstoffels	12810-00016-US	9915
30678 7590 10/16/2008 CONNOLLY BOVE LODGE & HUTZ LLP 1875 EYE STREET, N.W. SUITE 1100 WASHINGTON, DC 20006				
EXAMINER				
ROGERS, JAMES WILLIAM				
ART UNIT		PAPER NUMBER		
1618				
MAIL DATE		DELIVERY MODE		
10/16/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/524,370

## Applicant(s)

CHRISSTOFFELS ET AL.

## Examiner

JAMES W. ROGERS

## Art Unit

1618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 18-22 is/are pending in the application.
- 4a) Of the above claim(s) 7-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 18-22 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date 08/17/2005
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election with traverse of Group I claims 1-6 and 18-22 and the election of a species of monomer I in the reply filed on 07/18/2008 is acknowledged. The traversal is on the ground(s) that the office action fails to point to claim recitations establishing that the claims do not recite a special technical feature. Furthermore applicants assert Schade fails to suggest polymers comprising all of the associated benefits of the polymers claimed. This is not found persuasive because firstly the polymers of Schade are within the same claimed scope thus any properties of the copolymer are necessarily the same since the same polymer will have the same properties. Furthermore as clearly recited in the last action the last office action the claims lack a single inventive concept because Schade teaches polymers within the scope of formula 1 but does not describe their use in cosmetics or monomers of formula II and III. Claims 7-15 have been withdrawn by the examiner for relating to an unelected invention and/or species.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Objections***

Claim 4 is objected to because of the following informalities: there is no period at the end of the claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 and 18-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Blankenburg et al. (US 6,107,397).

Blankenburg teaches aqueous copolymer dispersions containing a copolymer formed from free radical polymerization of a nonionic monomer A that is selected from N-vinylactams, another monomer B, a ionic or ionizable monomer C that includes cationic monomers such as vinylimidazole, a crosslinking monomer D and a regulator that can be selected from numerous sulfur compounds including a number of thiol containing regulators. See abstract, col 2 lin 24-44, col 4 lin 51-col 5 lin 13, col 5 lin 54-67, col 7 lin 6-11, lin 45-48. The polymers obtained were said to be useful in cosmetic formulations including hair setting products and hair lacquers. See col 9 lin 34-44.

Claims 1-6 and 18-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Schade et al. (US 5,962,613, cited by applicants).

Schade teaches water soluble crosslinked copolymers produced by a free radical polymerization of a) monomers of vinylimidazole, b) other copolymerizable monoethylenically substituted monomers and at least one monomer C) that acts as a crosslinker. See abstract and claims. Monomer a) can further comprise polymers of formula II which include vinylactams and/or monomer a) can include cationic vinyl imidazoles of formula III. See col 3 lin 28-col 5 lin 8. The copolymerization took place in the presence of a polymerization regulator that could be selected from numerous sulfur compounds including a number of thiol containing regulators. See col 6 lin 66-col 7

lin28. The copolymers could be used as additives in cosmetic preparations. See col 9 lin 13-16.

### **Conclusion**

No claims are allowed. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W. Rogers, Ph.D. whose telephone number is (571) 272-7838. The examiner can normally be reached on 9:30-6:00, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Michael G. Hartley/

Supervisory Patent Examiner, Art Unit 1618